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UNCLAS SECTION 01 OF 13 NAIROBI 000763

SIPDIS

SENSITIVE

DEPT FOR G/TIP, G, INL, DRL, PRMAF/E, AND AF/RSA,
DEPT PASS TO DEPT OF LABOR

SIPDIS

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TAGS: [PHUM](#) [PGOV](#) [PREF](#) [EAID](#) [KCRM](#) [KWMN](#) [KFRD](#) [ELAB](#) [SMIG](#) [ASEC](#) [KE](#)
SUBJECT: KENYA: EIGHTH ANNUAL TRAFFICKING IN PERSONS REPORT

REF: STATE 2731

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SENSITIVE BUT UNCLASSIFIED

1. (U) The following information is keyed to the paragraphs in
reftel.

Overview of a country's activities to
eliminate trafficking in persons:

12. A. (SBU) Kenya is a source, transit, and destination country for trafficking in persons. Victims are trafficked for sexual exploitation through the country from Asian countries and the Middle East en route to European destinations. Women are trafficked to the Middle East, other African nations, Western Europe, and North America for forced domestic servitude and manual labor, massage parlors and brothels. Burundian and Rwandan nationals are working in the commercial sex trade or as domestic laborers in Kenya, and may have been trafficked for these purposes. Children are trafficked from Rwanda, DRC, Ethiopia, Uganda and Somalia to towns including Kisumu, Nakuru, Nairobi and Mombasa. Most trafficked girls end up working as barmaids, where they are vulnerable to sexually exploitation, or as child prostitutes. As awareness and understanding of human trafficking among communities grows, there is general acknowledgement that internal trafficking is prevalent. There have been several studies that describe how trafficking works in Kenya, but, there are no credible statistics to quantify the phenomena.

Human trafficking in Kenya continues to attract the attention of the

media, the public and the Kenya Government. A joint UNICEF/Ministry of Home Affairs research report on child sex tourism in four coastal districts launched on December 19, 2006, continues to be a point of reference as data on trafficking continues to be unavailable. Media covered trafficking issues in a generally responsible manner, although there were some sensational media reports. ANPPCAN, CRADLE, and the Solidarity Center have published reports on trafficking describing how the process works in Kenya.

Women, children, men, and refugees continued to be at risk. Girls are more at risk of being trafficked as child domestics, barmaids or prostitutes. Boys are exploited in domestic servitude, agriculture, and as herdsman.

There are reports that adults who traveled to the Middle East seeking work are exploited. Women find work mainly as domestics, while men are employed mainly in the construction industry.

1B. (SBU) Kenya remained a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labor and commercial sexual exploitation. Kenyan children were trafficked within the country for domestic servitude, street vending, agricultural labor, and commercial sexual exploitation, including involvement in the coastal sex tourism industry. Conditions were harsh, with long hours, poor or nonexistent pay. Trafficked children were often physically and sexually abused. Kenyan women and girls were trafficked to the Middle East, other African nations, Europe, and North America for domestic servitude, enslavement in massage parlors and brothels. They were lured by deceptive employment offers or false marriage offers. Kenyan men were usually exploited in construction in the Middle East. Employment agencies facilitate and profit from the trafficking of Kenyan nationals to Middle Eastern nations, notably Saudi Arabia, the U.A.E., and Lebanon, as well as Germany. Chinese, Indian, and Pakistani women reportedly transited Nairobi en route to

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exploitation in Europe's commercial sex trade. Brothels and massage parlors in Nairobi employ foreign women, some of whom are likely trafficked.

Males and females ages 13 to 25 are the most common victims. The HIV/AIDS pandemic has produced hundreds of thousands of orphans and vulnerable children who are easy targets for traffickers. The majority of domestic victims are from poor households with little education and poor employment prospects. Educated people are trafficked both domestically, and internationally. Internal and regional victims are usually transported on public road transportation. Victims traveling to the Middle East, Europe, and the U.S. generally possess travel documents and travel alone to the destination, where they are then exploited.

Internal trafficking is largely a rural to urban movement, with victims coming from Western, Eastern, Nyanza, Rift Valley, and Coast Provinces and Nairobi. Somali in refugee camps and in the Eastleigh section of Nairobi are also victims, especially of false and/or early marriage. Traffickers generally operated in small, local rings targeting poor families with false offers to take, raise, and educate children or youth in towns. They usually gained the trust of the families through family or tribal ties, but some posed as clergy or employment recruiters. Some parents knowingly gave their child to a friend or relative to work, both as a means of feeding the child, with the expectation of remittance of the child's earnings. Despite child-protection legislation outlawing the practice, employing children as domestics and farm workers is still regarded as normal in Kenya. Children also recruited other children to work as domestics or prostitutes.

Trafficking within the region appears to be the work of small or family-based crime groups. Children and youth are commonly trafficked across borders for exploitation as cheap, forced labor. Porous borders and corruption of border police made undocumented movement easy.

The case of two children trafficked from Bomet to Tanzania is illustrative. A Tanzanian woman approached a large, poor family,

claiming to be a member of the clergy. She convinced the parents to allow a 10-year old boy and a 12-year old girl to be raised by her at a religious establishment in Tanzania. Instead, the children were forced to work on the woman's farm. The girl twice attempted to escape, but police found and returned her to the trafficker, who claimed the girl was her own daughter. The girl finally escaped and returned to her home in Kenya, where she convinced authorities to locate and rescue her brother. The Tanzanian trafficker and her Kenyan accomplice disappeared, but are suspected of having trafficked 40 Kenyan children in this manner.

The Government increasingly collaborated with NGOs and international organizations (IO) to combat human trafficking. Awareness among government departments grew during the year, largely due to NGO and IO efforts to study the issue, educate the media, and inform the public about the problem. The Ministry of Home Affairs chaired the National anti-Trafficking Steering Group and worked closely with stakeholders to develop a National Plan of Action. The fight against child trafficking was the theme of the Day of the African Child commemorated across the country on June 16, 2007.

1C. (SBU) The Government has mandated the Ministry of Home Affairs under the Vice President's Office to coordinate the government's anti-TIP efforts. In turn, the Ministry of Home Affairs has designated its Children's Department as the lead agency. During the reporting period, the Ministry of Local Government and Provincial Administration supported efforts to enlist hotels and other tourism sector stakeholders to enforce the Code of Conduct (the Code)

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against child sex tourism (CST). These Government departments supported NGOs and convened meetings to sensitize stakeholders to the need to uphold the Code. In the North Coast area of Malindi, the local District Commission established and chaired an active District-level anti-CST committee. This committee was formed after an appeal by the U.S. Ambassador during his July 2007 visit to the District. A local NGO reported that 20 hotels in the Malindi area pledged to enforce the Code of Conduct against CST, increasing the number of participating hotels to over 40.

1D. (SBU) Senior government officials and government officials working with children accept that Kenya has a trafficking problem. However increased awareness within the Government at all levels is needed to foster better cooperation with civil society, and to strengthen public education efforts. Government agencies such as the Ministry of Home Affairs and the Ministry of Labor and Human Resource Development do not have sufficient resources for their local officers to work effectively to protect children or help victims. A variety of laws address some aspects of trafficking. Additionally, the absence of a comprehensive anti-trafficking law hampers police and the criminal justice system (who are also under-resourced and not well-trained on trafficking) in fighting TIP. Widespread corruption among immigration and police officials is another obstacle to the government's anti-TIP efforts.

1E. (SBU) The government had no mechanism to assess or report its anti-trafficking efforts, but officials addressing anti-trafficking or child labor events described the government's anti-TIP efforts in detail. The Ministry of Home Affairs began collecting information on trafficking cases in 2007 from the media, foreign governments, the UN Organization for Drugs and Crime, and the police.

During the reporting period the Vice President, Attorney General, Labor Minister, and other senior officials spoke at length of the government activities to combat TIP at events such as the September 2007 1st International Conference on Child Sexual Abuse in Africa and the launch of the Solidarity Center's study on trafficking in Kenya.

INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

13. A. (SBU) Kenya does not have comprehensive anti-trafficking in persons legislation. During the reporting period the Attorney General's office worked with NGOs to refine a bill that should be completed in 2008. In the absence of comprehensive anti-TIP

legislation, various sections of the Penal Code, the Sexual Offenses Act of 2006, and the Children's Act of 2001 criminalize certain acts associated with trafficking of children and trafficking in persons for the purpose of sexual exploitation.

Section 174 of the Penal Code states, "Any person who forcibly or fraudulently takes or entices away or detains a child; or receives or harbors the child, knowing it to have been taken or enticed away or detained is guilty of a felony and is liable for imprisonment for seven years."

Section 254 of the Penal Code states, "Any person who conveys any person beyond the limit of Kenya without the consent of that person or of some person legally authorized to consent on behalf of that person is said to kidnap that person from Kenya."

Section 255 creates the offence of kidnapping of a minor under the age of 14 if male or age 16 if female without the consent of the guardian and sets the penalty at seven years imprisonment.

Section 260 creates the felony offence of kidnapping or abducting in

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order to subject a person to grievous harm or slavery and sets the penalty at 10 years imprisonment.

Section 261 criminalizes the wrongful concealment or confinement of a kidnapped person, setting the same penalty as a kidnapper.

Section 264 criminalizes the "Buying or disposing of a person as a slave." To import, export, remove, buy, sell, or dispose of any person as a slave, or to accept, receive or detain against his will any person as a slave is an offense and the penalty is seven years imprisonment.

Section 265 creates the felony offense of "habitual dealer in slaves," and sets the penalty at 10 years imprisonment. Section 266 outlaws any person who unlawfully compels any person to labor against his will.

Section 15 of the Children's Act of 2001 states, "A child shall be protected from sexual exploitation and use in prostitution, inducement or coercion to engage in any sexual activity, and exposure to obscene materials." Section 13.1 states, "A child shall be entitled to protection from physical and psychological abuse, neglect and any other form of exploitation including sale, trafficking or abduction by any person. The Act sets no penalties for violations.

The Sexual Offenses Act of 2006 includes the following provisions:

Section 13: Child Trafficking: A person including a juristic person who, in relation to a child -

a) knowingly or intentionally makes or organizes any travel arrangements for or on behalf of a child within or outside the borders of Kenya, with the intention of facilitating the commission of any sexual offence against that child, irrespective of whether the offence is committed;

b) supplies, recruits, transports, transfers, harbors or receives a child, within or across the borders of Kenya, for purposes of the commission of any sexual offence under this Act with such child or any other person, is, in addition to any other offence for which he or she may be convicted, guilty of the offence of child trafficking and is liable upon conviction to imprisonment for a term of not less than ten years and where the accused person is a juristic person to a fine of not less than two million shillings.

Section 14 Child sex tourism: A person including a juristic person who:

a) makes or organizes any travel arrangements for or on behalf of any other person, whether that other person is resident within or outside the borders of Kenya, with the intention of facilitating the

commission of any sexual offence against a child, irrespective of whether that offence is committed; or

b) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that would constitute a sexual offence against a child

c) introduces, organizes or facilitates contact with another person under the auspices of promoting tourism, in any manner, in order to promote conduct that would constitute a sexual offence against a child, is guilty of an offence of promoting child sex tourism and is liable upon conviction to imprisonment for a term of not less than ten years and where the accused person is a juristic person to a fine of not less than two million shillings.

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Section 15 Child prostitution: Any person who:

a) knowingly permits any child to remain in any premises, for the purposes of causing such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show;

b) acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse or indecent exhibition or show;

c) induces a person to be a client of a child for sexual intercourse or for any form of sexual abuse or indecent exhibition or show, by means of print or other media, oral advertisements or other similar means;

d) takes advantage of his influence over, or his relationship to a child, to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show;

e) threatens or uses violence towards a child to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show;

f) intentionally or knowingly owns, leases, rents, manages, occupies or has control of any movable or immovable property used for purposes of the commission of any offence under this Act with a child by any person;

g) gives monetary consideration, goods other benefits or any other form of inducement to a child or his parents with intent to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show, commits the offence of benefiting from child prostitution and is liable upon conviction to imprisonment for a term of not less than ten years.

Section 18: Trafficking for Sexual Exploitation:

1) Any person who intentionally or knowingly arranges or facilitates travel within or across the borders of Kenya by another person and either -

a) intends to do anything to or in respect of the person during or after the journey in any part of the world, which if done will involve the commission of an offence under this Act; or

b) believes that another person is likely to do something to or in respect of the other person during or after the journey in any part of the world, which if done will involve the commission of an offence under this Act, is guilty of an offence of trafficking for sexual exploitation.

2) A person guilty of an offence under this section is liable upon conviction, to imprisonment for a term of not less than fifteen years or to a fine of not less than two million shillings or to both.

1B. (SBU) The Sexual Offences Act of 2006 provides a minimum sentence for trafficking of people for sexual exploitation 10 years in prison and a fine of approximately two million shillings (approximately USD 27,400). The maximum sentence is life imprisonment.

The Sexual Offences Act has not been fully operationalized, so there

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were no prosecutions under this law in the reporting period. The GOK appointed a Task Force to implement the Act, chaired by High Court Judge Lady Justice Joyce Aluoch.

The Employment Act of 2007 sets the requirements for recruiters and foreign employers for employing Kenyans outside of Kenya. Some recruiters and Kenyan migrants follow the procedure described below of having the Ministry of Labor and Human Resource Development vet their contracts for compliance with Kenyan labor laws. The Saudi Embassy confirms contracts for Kenyan migrants. However, some Kenyan migrants claim they are traveling for education or tourism rather than employment, and do not avail themselves of this service.

The Employment Act provides as follows:

Section 82. This part shall apply in respect of every foreign contract of service, being a contract for service made in Kenya and to be performed in full or in part outside Kenya, and a contract for service with a foreign state, except a contract for service entered into with, by or on behalf of the government.

Section 83. A foreign contract of service shall be in the prescribed form, signed by the parties thereto, and shall be attested by a labor officer.

Section 84. A foreign contract of service shall not be attested unless the labor officer is satisfied-

- (a) that the consent of the employee to the contract has been obtained
- (b) of the absence of any fraud, coercion or undue influence, and any mistake of fact, or misrepresentation which might have induced the employee to enter into the contract;
- (c) that the contract is in the prescribed form;
- (d) that the terms and conditions of employment contained in the contract comply with the provisions of this. Act and have been understood by the employee;
- (e) that the employee is medically fit for the performance of his duties under the contract; and
- (f) that the employee is not bound to serve under any other contract of service during the period provided in the foreign contract.

Section 85.(1) When the employer who enters into a foreign contract of service does not reside or carry on business within Kenya, the employer shall, or where the employer resides in Kenya, the labor officer may require the employer to, give security by bond in the prescribed form, with one or more sureties resident in Kenya and approved of by the labor officer for the due performance of the contract in such sums as the labor officer considers reasonable.

(2) Where the employer has an authorized agent resident in Kenya, the Minister may require that the security bond specified in subsection (1) be given by the agent and the agent shall personally be bound by the terms of the bond notwithstanding the disclosure of his principal.

The Employment Act of 2007 defines forced or compulsory labor to mean any work or service which is extracted from any person under the threat of any penalty, including the threat of a loss of rights or privileges, which is not offered voluntarily by the person doing the work or performing the service;

Section 4.1 of the Act states:

(1) No person shall use or assist any other person in recruiting, trafficking or using forced labor. (The Act does not define trafficking or refer to another law that does.)

The Act defines the worst form of child labor with respect to juveniles to mean their employment, engagement or usage in any activity comprising of

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced -or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the child;

1B. (SBU) Under the Sexual Offences Act of 2006, the minimum sentence for trafficking of people for sexual exploitation under the various existing laws is 10 years in prison and a fine of approximately \$27,400 (approximately two million shillings). The maximum is life imprisonment.

There were no prosecutions under these laws in the reporting period. The Sexual Offences Act has not been fully operationalized. The GOK appointed a Task Force to implement the Act, chaired by High Court Judge Lady Justice Joyce Aluoch.

1C. (SBU) Under Section 4 of the Employment Act of 2007, the penalty for recruiting, trafficking or using forced labor shall be a fine not exceeding five hundred thousand shillings (approximately USD 7700) or up to two years imprisonment, or both.

Section 86 of the Employment Act of 2007 states that person who violates the provisions regarding employing a Kenyan outside Kenya is subject to a fine not exceeding two hundred thousand shillings (approximately USD 3100) or up to six months imprisonment, or both.

No specific law in Kenya punishes employers or labor agents who confiscate workers' passports or travel documents, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as a means of keeping the worker in a state of service. The Employment Act and other labor laws protect the rights of migrant as well as Kenyan workers.

There were no arrests or convictions for labor trafficking or forced labor during the reporting period.

1D. (SBU) Under the Penal Code, the penalty for rape is imprisonment for a period of 10 years to life. The penalty for gang rape is 15 years to life imprisonment. The minimum term in prison for trafficking for the purpose of sexual exploitation is 15 years' imprisonment, a fine of up to approximately 2 million Shillings (approximately USD27,400), or both. As Kenya does not have legislation specifically proscribing trafficking in persons or commercial sexual exploitation, no comparison of penalties is possible.

-- E. Prostitution is not illegal. However, the activities of the pimp and brothel are criminalized. Section 17 of the Sexual Offences Act, Exploitation of prostitution, states:

Any person who-

- (a) intentionally causes or incites another person to become a

prostitute; and

- (b) intentionally controls any of the activities of another person

relating to that persons prostitution; and does so for or in expectation of gain for him or her self or a third person, is guilty of an offence and is liable upon conviction to imprisonment for a term of not less than five years or to a fine of five hundred thousand shillings (approximately USD 7700) or to both.

Section 182 of the Penal Code on idle and disorderly persons states that "Every common prostitute behaving in a disorderly or indecent manner in any public place", "Every person who without lawful excuse publicly does any indecent act, and "every person who in any public place solicits for immoral purposes" is guilty of a misdemeanor. The penalty for the first offence is imprisonment for one month and/or a fine up to one hundred shillings (approximately USD 1500). The penalty for every subsequent offence is imprisonment for one year.

1F. (SBU) A number of human trafficking cases were prosecuted, with some suspects being given prison sentences. Examples:

In April 2007, two women who allegedly lured a 14 year old to their home and encouraged her to engage in sexual activity were arrested on defilement and child prostitution charges. Both charges carry a maximum of life imprisonment. The women were remanded in custody. The case is still pending.

In June 2007, a German National was arrested under the Sexual Offences Act and charged with sexually exploiting two children aged 17 years and 16 years at Likoni children's home who had been trafficked from Nyanza. The matter is still pending.

One person was charged with sexual abuse of children under the Sexual Offences Act and two accomplices were sought by police.

Six people were charged under the Children's Act with the sale and trafficking of 14 children in Bomet and Nandi Districts of Rift valley Province.

The Police Commissioner worked with Interpol to investigate the suspected trafficking to Ireland of four children ages 4 to 14 years.

The Police Commissioner worked with Interpol to investigate the case of a 19 year old woman allegedly trafficked to Holland.

Police investigated the trafficking of two children to Tanzania who were rescued and taken to a children's home. Police suspect the Tanzanian and Kenyan perpetrators had trafficked 40 children and six adults.

In July 2007, two female secondary school teachers in Kirinyaga District were arrested for alleged child trafficking based on a tip.

In October 2007, police in Malindi arrested an Italian national on suspicion of drug trafficking, child prostitution and human trafficking. His passport was expired and had false stamps extending his stay in Kenya until 2015.

No specific law in Kenya punishes employers or labor agents who confiscate workers' passports or travel documents, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as a means of keeping the worker in a state of service. The Employment Act and other labor laws protect the rights of migrant as well as Kenyan

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workers. There were no arrests or convictions for labor trafficking or forced labor during the reporting period.

Due to a lack of systematic tracking of anti-TIP efforts, the GOK can not provide statistics on the total and types of trafficking cases prosecuted.

1G. (SBU) The Kenya Police Training College regularly invites the Federation of Women Lawyers (FIDA) to make presentations on trafficking and child protection to police recruits during training.

Under a USG program, the American Bar Association (ABA) provided a week-long TIP training for 45 police officers in December 2007. The Head of Police Training attended the course.

FIDA expects the police will formally incorporate FIDA's presentation into its curriculum in 2008. The draft National Plan of Action calls for government training facilities, including the Kenya Institute of Administration (KIA), and the Kenya Police Training (KPC) College and the Administration Police Training College (APTC), to include a detailed unit on TIP in their curricula.

¶H. (SBU) The GOK cooperated with Interpol to help convict three women who had trafficked babies to the United Kingdom, and are still working with it and the British government to extradite the main culprit, Gilbert Deya, to Kenya to face charges. Kenyan police worked informally with Tanzanian police to return the rescued boy referred to in 27(B)

¶I. (SBU) Chapters 76 and 77 of the Penal Code define an "extradition crime" as a crime which, if committed within the jurisdiction of Kenya, would be one of the crimes described in the Schedule. While trafficking is not a crime in Kenya, the schedule includes the related crimes of:

- Rape, defilement and unlawful carnal knowledge.
- Indecent assault.
- Child-stealing.
- Kidnapping and false imprisonment.
- Procuration (soliciting sex).
- Offences against the Slave Trade Act 1873, or otherwise in connection with the slave trade

The government did not receive any extradition requests during the reporting period.

¶J. (SBU) There was no evidence to show government involvement in TIP. However, some anti-trafficking activists made credible claims that, in certain areas, police tolerated trafficking operations or, in some cases, protected trafficking operations and prevented or obstructed criminal investigations of trafficking in persons in exchange for payment of bribes. Anti-trafficking groups alleged that some immigration officials accepted bribes to ignore cross-border trafficking.

¶K. (SBU) No government officials were arrested or tried for involvement in trafficking during the reporting period.

¶L. (SBU) During the reporting period there were no reports of Kenyan peacekeeping troops facilitating any form of human trafficking while serving outside Kenya.

¶M. (SBU) Child sex tourism is common in Kenya, especially in the coastal resort areas. Government policy has been to quietly deport foreign pedophiles. No statistics on the number of foreigners deported for child-sex tourism are available. The UNICEF/Ministry of Home Affairs study of child sex tourism in four coastal resort

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districts released in December 2006 profiled customers of child prostitutes by nationality. It found that 41% of the child prostitutes' customers were Kenyan. Other nationalities using child prostitutes were: Ugandan, Tanzanian, Congolese, Italian, German, Swiss, British, Scandinavian, French, American, Japanese, Arabian, and Austrian. Kenya's child sexual abuse laws do not have extraterritorial coverage.

PROTECTION AND ASSISTANCE TO VICTIMS

¶A. (SBU) The government does not provide assistance to foreign trafficking victims. The government's policy is to return victims to their country of origin.

¶B. (SBU) The government provided shelter and medical care to street

children exploited in the commercial sex industry. The Children's department has officers who offer psychological counseling services to victims, but this service is largely left to the NGOs. There are currently 24 Government-owned children's care institutions and more than 500 privately run children's homes. As government policy is to deport foreign victims of trafficking, they did not have access to assistance.

In partnership with an NGO, the Ministry of Home Affairs provided and refurbished a building to house a child emergency helpline provided some staff to serve as counselors and refer callers to government and non-government service providers.

In June, the Director of Children's Services announced that children's officers, probation officers, and provincial administrators had received training on children's rights, which included trafficking issues. Also in June, the government reported that Children's Services had hired an additional 80 Chief Children's Officers.

1C. (SBU) The GOK provided human and logistical resources in supporting NGOs and international organizations for services to victims. The Ministry of Home Affairs partnered with NGO Childline Kenya to establish a Child Helpline. The Ministry allocated and refurbished office space to house the Helpline. Staff members were hired and/or trained to serve as counselors and refer callers to government and non-government service providers.

1D. (SBU) Government law enforcement, immigration, and social services personnel do not employ a formal system to proactively identify trafficking victims among high-risk persons. The GOK employs standard coordinating systems for different criminal operations. During the reporting period two victims were referred by law enforcement agencies to the IOM. The GOK has not developed a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities.

1E. (SBU) Not applicable.

1F. (SBU) The rights of victims were generally respected. Victims were not detained or prosecuted.

1G. (SBU) In the few anti-TIP prosecutions, there was cooperation between trafficking victims and prosecutors. Kenya's justice system allows trafficking victims to seek damages via civil actions. However, high court costs and delays in processing suits serve as practical barriers to victims of trafficking to seek redress through civil actions. During the reporting period no trafficking victim filed a civil action for damages.

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1H. (SBU) The Witness Protection Act of 2006 allows the Attorney General to designate a witness for protection, which can include relocation, shelter, and cash allowances. While the Act can be used to protect a trafficking victim, its primary aim is to encourage whistleblowers to come forward with evidence in corruption and financial crimes. There was no public mention of the government offering protection to any witnesses. See B for more information on shelters.

1I. (SBU) The Ministry of Foreign Affairs provides no training for its embassy staffs on trafficking or how to assist victims. The Ministry of Home Affairs claimed it posted an attach to Riyadh to perform assist Kenyan victims of trafficking. During the reporting period the U.S. Embassy Labor Attach and IOM briefed 15 newly-appointed Kenyan Ambassadors at the GOK's Foreign Service Institute on trafficking and assisting Kenyan victims. The Ministry of Foreign Affairs indicated it would like a comprehensive briefing from IOM, the Ministries of Labor and Home Affairs, and Post for mid-grade and junior officers on how to prepare to assist Kenyan victims. There was no public mention of Kenyan Embassies or Consulates assisting any TIP victims during the reporting period, but in 2006, the Kenyan Embassy in Riyadh helped 10 women workers return to Kenya. Ministry of Labor officials stated that, under the contracts they approve, foreign employers or the recruitment agency

are responsible for paying for transportation back to Kenya if the worker quits because of contract violations, including poor or abusive working conditions. If they refuse, the government may pay the transportation cost and then try to collect later from the recruiter.

1J. (SBU) The GOK has no programs to assist Kenyan nationals who are victims of trafficking.

1K. (SBU) The GOK worked closely with the donor community, the International Organization for Migration, UNICEF and NGOs including the Federation of Women Lawyers (FIDA), ABA, CRADLE, SOLWODI, LSK, and ANPPCAN. The GOK was not in a financial position to fund NGOs, or direct how funds could be used.

PREVENTION

15. A. (SBU) The GOK acknowledges trafficking in persons as a problem.

1B. (SBU) The government participated in awareness building and education campaigns, seminars and workshops together with NGOs. In June 2007, the government declared anti-trafficking as the theme of Kenya's observation of the Day of the African Child. District-level officials tried to educate the public, but meetings with some district-level officials indicated the impact was not strong and clear. Senior government officials, including the Vice President, Attorney General, Minister of Labor, and Permanent Secretary for Home Affairs have spoken at various anti-trafficking and child protection events. The Kenyan media, especially the Government-owned Kenya Broadcasting Corporation reported cases of suspected human trafficking.

1C. (SBU) The GOK increased its participation in TIP activities and meetings organized by NGOs. It invited anti-trafficking NGOs to participate in GOK-organized anti-TIP events, with NGOs sometimes acting as co-sponsors. The GOK worked closely with the donor community, the International Organization for Migration, UNICEF and NGO's including the Federation of Women Lawyers (FIDA), ABA, CRADLE, SOLWODI, LSK, and ANPPCAN. The government invited some of those stakeholders to join the National Anti-Trafficking Steering

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Committee and help draft the National Plan of Action and Anti-Trafficking policy. The Attorney General's office is working with NGOs to complete an anti-trafficking bill for submission to parliament.

1D. (SBU) The government does not monitor immigration and emigration patterns for evidence of trafficking. Law enforcement agencies do not screen for potential trafficking victims at border crossings.

1E. (SBU) The Vice President's office, through the Ministry of Home Affairs, leads the government's anti-trafficking efforts, strongly supported by IOM. In August 2007 the government created a National Steering Committee to Combat Human Trafficking to promote and coordinate anti-trafficking activities and to raise the profile of human trafficking issues in public and policy circles. The Steering Committee is chaired by Ministry of Home Affairs Permanent Secretary or the Director of Children's Services and its membership includes representatives of government ministries, international organizations, non-governmental and faith-based organizations. It receives technical support from the International Organization for Migration.

1F. (SBU) The National Steering Committee to Combat Human Trafficking is preparing a National Plan of Action and anti-Trafficking policy for Cabinet approval. The post-election violence that disrupted Kenya in January and February 2008 delayed completion of drafting of the Action Plan until March or April 2008. The Steering Committee consists of the following organizations:

GOK:

- Ministry of Provincial Administration and Internal Security
- Office of the Cabinet
- Kenya Police
- National Security Intelligence
- Permanent Secretary (PS) Ministry Home Affairs
- Ministry Home Affairs Children's Department
- Attorney General's Office
- Education Ministry
- Immigration Ministry
- Information and Communications Ministry
- Labor and Human Resources Ministry
- Tourism Ministry
- Health Ministry

Civil Society and NGOs:

- Law Society of Kenya
- FIDA (Federation of Women Lawyers)
- CRADLE Children's Foundation
- Children's Legal Network (CLAN)
- Association of Media Women in Kenya (AMWIK)
- SOLWODI (Solidarity with Women in Distress)
- Miji Kenda Girl Child Organization
- National Council of Christian Churches (NCCCK)
- Supreme Council of Kenya Muslims (SUPKEM)
- Hindu Council of Kenya
- African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN)

International Partners

- IOM
- UNICEF
- UN Organization for Drugs and Crime (UNODC)
- International Labor organization (ILO)
- The American Bar Association
- Embassy of the United States of America

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¶G. (SBU) The government undertook public education campaigns in conjunction with NGO partners to reduce demand for commercial sex acts.

¶H. (SBU) Not applicable

¶I. (SBU) Post presented a demarche to the government seeking information on this issue for inclusion in the TIP report. There was no reply. Military cooperation officials in the Embassy could not confirm that anti-TIP training was included in PKO pre-deployment training. During the reporting period there were no reports of involvement of Kenyan PKO troops in trafficking.

RESOURCES EXPENDED ON REPORT

¶6. (U) PolFSN Michael Kamau (rank FSN 10/11) spent approximately 130 hours in the preparation of this report. He can be reached at (254) 20-363-6276 (office) or (254) 722-515-293, fax: (254) 20-363-6281 .

The following

individuals also contributed to preparation of this report: Pol Off Keith Bean (FS-04) spent 8 hours
Econoff (FS-01 :) spent 10 hours;
Acting PolCons (rank:xx) spent hours;
Consul General (rank:OC) spent 2 hours;
DHS/IOC (rank: GS-12) 2 hours;
RSO/TIP spent 2
Deputy Chief of Mission (rank:FEMC) spent XX hours.

RANNEBERGER